

REMARKS

Claims 1, 18 and 19 have been amended to more particularly point out and distinctly claim the subject matter of the invention. Thus, claims 1-19 remain pending in the present application. No new matter has been added. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

I. The Rejections Under 35 U.S.C. § 101 Should Be Withdrawn

The Examiner rejected claims 1, 6 and 9 under 35 U.S.C. § 101 as directed to non-statutory subject matter. *Office Action*, ¶ 2, page 2. The applicants have amended claim 1 to clarify the inventive method and that the inventive method is executed on a computing device. Thus, applicants respectfully submit that the claims 1, 6 and 9 are directed to statutory subject matter as required by 35 U.S.C. § 101 and the rejection should be withdrawn.

II. The Rejections Under 35 U.S.C. § 102 Should Be Withdrawn

The Examiner has rejected claims 1, 6 and 9 as being anticipated by the public use of a person sitting at a desk and adding two numbers. *Office Action*, ¶ 3, pages 2-3. The applicants have amended claim 1 to clarify the inventive method and that the inventive method is executed on a computing device. Thus, applicants respectfully submit that the claims 1, 6 and 9 are not anticipated by the public use asserted by the Examiner and that the rejection should be withdrawn.

The Examiner has rejected claims 1-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,966,536 to Ravichandran ("the Ravichandran reference"). *Office Action*, ¶ 4, pages 3-5. The Ravichandran reference discloses a method and apparatus for transforming a source executable code optimized for a source processor into target executable code optimized for execution on a target processor. *Ravichandran reference*, Abstract. The method is described as accepting initial target executables and collecting execution performance information for each block of code. *Id.* at col. 5, lines 16-27. The source executable is also accepted, converted into a functionally equivalent source executable capable of execution on the target processor and execution performance information is collected. *Id.* at col. 5, lines 28-61. It is then determined if the functionally equivalent source executable executes faster than the target executable. *Id.* at col. 5, line 62 - col. 6, line 6. If it is, the functionally equivalent source

executable is used to optimize the target executable. *Id.* at col. 6, lines 12-24. The server and the workstation then enable the negotiated protocols. *Id.* at col. 9, lines 61-65. The method then generates an optimization metric for the functionally equivalent source executable and the target executable and uses this information to determine which blocks should be combined to generate a new optimized target executable. *Id.* at col. 6, line 25- col. 7, line 36.

Claim 1 of the present invention recites "generating a list of *desired elements of the first software code*, the first code having a predefined command structure" and "extracting the *desired elements* from the first code." The Examiner equates the optimization metrics of the Ravichandran reference with the code elements of the present invention. *Office Action*, ¶ 4, page 4. Applicants respectfully submit that the optimization metrics described in the Ravichandran reference are completely different from the elements recited in claim 1 of the present invention. The elements recited in claim 1 refer to specific code elements of the first software code. As described in the specification and shown in the figures, a user may indicate the desired elements via a graphical user interface or a list of predetermined elements may be generated by a program or subroutine. *Specification*, ¶¶ 0044-0045; Fig. 14. After this list of elements are created, the elements are extracted from the software code. Fig. 13 shows an exemplary output showing the desired elements from the exemplary software code shown in Fig. 12. As can be seen from these examples, the elements recited in claim 1 refer to actual software code elements, *i.e.*, elements included in the software code.

The optimization metrics described by the Ravichandran reference are not "*desired elements of the first software code*" as recited in claim 1. The optimization metrics of the Ravichandran reference are characteristics of the functionally equivalent source executable and initial target executable, but are not actual elements of the code. These characteristics are described as including the run-time of the code, a frequency index, a live register, a code stability indicator, a code state definition, etc. These examples show that optimization characteristics are not elements of the code, but are operating characteristics of that code which are distinct from actual elements of the code. As described in the Ravichandran reference, "[t]hese optimization metrics are used to provide a measure of the execution performance for different basic blocks." *Ravichandran reference*, col. 6, lines 41-42.

Claim 1 recites "extracting the desired elements from the first code." As described in the Ravichandran reference, the optimization metrics are generated from the code. The optimization metrics cannot be extracted because they are derived characteristics of the code.

Whereas, the elements recited in claim 1 are elements of the code itself which can be directly extracted from the code.

The applicants respectfully submit that the Ravichandran reference neither discloses nor suggests "generating a list of *desired elements of the first software code*, the first code having a predefined command structure" and "*extracting the desired elements* from the first code" as recited in claim 1. Accordingly, the applicants respectfully submit that the rejection of claim 1 and all claims depending therefrom (claims 2-10) should be withdrawn.


Independent claims 11 recites substantially the same limitation as claim 1. Specifically, claim 11 recites "a first engine receiving a list of *desired elements of a first software code*, the first code having a predefined command structure" and "a second engine *extracting the desired elements* from the first code." Accordingly, for the reasons described above with reference to claim 1, the applicants respectfully submit that the rejection of claims 11 and all claims depending therefrom (claims 12-19) should be withdrawn.

CONCLUSION

In view of the amendments and remarks submitted above, the Applicants respectfully submit that the present case is in condition for allowance. All issues raised by the Examiner have been addressed, and a favorable action on the merits is thus earnestly requested.

Respectfully submitted,

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